

ENVIRONMENTAL QUALITY COMMISSION

EQC Public Forum

May 18, 2000

Room 125, Capitol Annex, Frankfort

The Kentucky Environmental Quality Commission (EQC) held a public forum on May 18, 2000 at 1:00 at the Capitol Annex in Frankfort, Kentucky. Commissioners present were Chair Aloma Dew, Vice-Chair Betsy Bennett, Patty Wallace, and Gary Revlett. EQC staff present was Acting Director Scott Richards, Erik Siegel, and Frances Kirchhoff. There were approximately 15 people in attendance.

EQC Chair Aloma Dew called the meeting to order at 1:00 p.m. and introduced Deputy Secretary Bruce Williams of the Natural Resources and Environmental Protection Cabinet. Mr. Williams gave a brief description of the fish kill in the Kentucky River. The plume of bourbon caused by the spillage from a warehouse fire in Anderson County on May 15 is suspected to have depleted the level of dissolved oxygen in the water and caused fish to die in record numbers. The U.S. Coast Guard plans to begin today using huge pumps and compressors to churn air into the waters in hopes of stopping the massive fish kill.

Mr. Williams gave a wrap-up of the 2000 General Assembly session. Highlights of the session were:

- HB 236: Vehicle Emission Testing - Amends KRS 224.20-710, relating to definitions governing vehicle emission testing programs to exclude motorcycles from the definition of a vehicle; Amends KRS 224.20-755 to prohibit counties operating vehicle emission control programs from inspecting motorcycles; Amends KRS 224.20-760 to prohibit air pollution control districts administering a vehicle emission control program from inspecting motorcycles.
- HB 398 - Amends sections of KRS Chapter 235 relating to boating to define "houseboat"; prohibits the discharge of sewage from a houseboat rather than from a vessel; prohibits houseboats, rather than motorboats equipped with marine toilets, from being on the waters of the Commonwealth unless equipped with a marine sanitation device.
- HB 543 and SB192: These companion bills clarified the independent status of the authority of the Kentucky River Authority. Specifically, they are to: attach the Kentucky River Authority to the Finance and Administration Cabinet for administrative purposes; require the Authority to coordinate planning with the NREPC to ensure consistency with KRS Chapters 151 and 224; direct the authority to undertake a continuing study of water availability and needs with a focus on necessary capital construction to maintain and

increase water availability and to provide the General Assembly with a cost estimate on a biennial basis; require the Authority to submit to the General Assembly biennially a 6-year program of preconstruction and construction activities; and to maintain or increase water available within the Kentucky River. The program must include: a 2-year construction component to be implemented as authorized by the General Assembly in the Authority biennial budget and a 4-year preconstruction component; and require the Authority to review and comment on requests for state agency action required for the transfer between water utilities of drinking water within or into the watershed of the Kentucky River basin.

- HB 579: Chemical Munitions - This legislation contains the negotiated changes sought by various interests in order to amend KRS 225.50-130 pertaining to the disposal of chemical agents stored at the Blue Grass Army Depot in Richmond.
- HB 599: Right of Entry- This act creates a new section of KRS Chapter 350 to create an easement of necessity for a permittee or operator issued a notice of noncompliance on the basis of an imminent danger if the property owner denies access.
- HB 643: Hazardous Waste Assessment - The state hazardous waste assessment was set to sunset June 30, 2000, unless the collection of the fee was reauthorize. This fee is imposed on generators of hazardous waste to pay for environmental emergency responses and cleanups of abandoned hazardous waste disposal sites in the state.
- HB 792: Roads Above Highwalls - This act amends KRS 350.445 to add that land above the highwall may be disturbed for construction of a permanent road only where the applicant affirmatively demonstrates, and the cabinet makes a detailed determination, that the proposed disturbance facilities compliance with KRS Chapter 350. The amount of the disturbance must be limited to the amount necessary to facilitate compliance.
- HB 806: Coal-fired Electric Generation Plants - This act provides economic development incentives for electric generation plants that use coal. It also amends KRS Chapter 224 to require the Secretary of the NREPC to facilitate the permitting of coal-fired electric generation plants in the Commonwealth by developing procedures for one-stop shopping for environmental permits.
- SB 14: Vehicle Emission Testing - This legislation amends various sections of KRS Chapters 77 and 224 relating to air pollution to limit local vehicle emission testing programs to controlling only mobile sources regulated under the state program set out in KRS 224.20 – 710 to 224.20-765.
- SB 110: Sewage Facilities - Amends KRS 278.010 to include sewage collection and transmission facilities that are not municipally owned within the definition of the PSC-regulated utility, and excludes sanitation districts formed under KRS Chapter 220 from the definition of a utility within the jurisdiction of the PSC.
- SB 197: Straight Pipe Removal and Flood Abatement - This act amends KRS 147A.029 to allow funds appropriated for the Local Match Participation Program to be used as matching funds by local governments for straight pipe removal projects.
- SB 409: Infrastructure/Water Resources - Declares that the Kentucky Infrastructure Authority shall implement a program for the provision of water services; transfers the Water Resource Information System from the Water Resource Development Commission

to the Kentucky Infrastructure Authority; allows the Authority to request information of state and local governments relating to water resource development and management; requires the authority to promulgate administrative regulations requiring water supply and distribution systems to provide certain information as a condition of receiving assistance from the Authority; requires Area Development Districts to establish 2020 water management areas within 12 months of the effective date of the act; requires that 2020 water management planning councils be established with the assistance of the ADDs; specifies that the councils shall be comprised of the county judge-executive, a representative of each community public water system that provides water to persons in the county, a representative selected by a local health department in the county, and one representative selected by each first, second, third, and fourth class city; requires the ADDs to provide a forum for the chairs of the planning councils to meet at least quarterly to develop regional service strategies; requires each planning council to develop, by July 1, 2002, a plan that (a) includes a water needs forecast for the county for dates at five year intervals after 2000; (b) contains a strategy for delivering potable water as needed into the underserved and unserved areas of the county; and (c) encourages the merger and consolidation of water systems.

Legislation that did not pass included HB 1 – The bottle bill which contained mandatory collection, an advance disposal fee on fast-food packaging, and a container deposit provision. For the first time in 15 years, a bottle bill cleared committee but was defeated on the House floor. HB 940 would have eliminated corporate liability for water pollution from industrial chicken and hog production operations. Mr. Williams' commented on items in the budget related to the environment included the re-enactment of the ownership and control language that blocks the issuance of surface mining permits to either the applicant or any person who owns or controls the applicant who is currently in violation; new funding of \$600,000 for fiscal year 2001 for the acquisition of lands by the Nature Preserves Commission; funding to pay the debt service on the acquisition of timber and coal rights to the Black Mountain summit forest ecosystem; funding to support a bond issue of \$1.5 million for a new VHF radio system to help the Division of Forestry with forest fire suppression; an additional \$300,000 each year to continue the illegal dumps clean up work of the Cabinet; a provision allowing the Transportation and NREPC to accept private grants and donations of money, property, or labor for Adopt-A-Highway or other statewide litter programs. The act exempts these contributions from executive branch ethics law prohibitions on private sector contributions to executive branch agencies; an additional \$400,000 each year of the biennium to support operating expenses for reforestation programs; and funding of \$3.7 million to Kentucky River Authority for dam repair, for project design and environmental analysis on modifying dam 10, and for geotechnical evaluation of dams.

Next, EQC Chair Dew introduced Tom FitzGerald, Director of the Kentucky Resources Council. Mr. FitzGerald focused his attention on bills introduced in the 2000 session that did not pass but will be back during the next legislative session.

- HB 1 – the bottle bill will most likely be re-introduced.
- HB 490 – requires Kentucky companies when applying for economic development assistance

from the Kentucky Economic Development Finance Authority to report on any environmental, occupational safety and health, or equal employment violations, civil and criminal actions within the last five years before receiving economic development monies.

- HB 872 - ends the practice of the way coal companies acquiring permits to mine property that is held by more than one person.
- SB 172 - allows cutting and removal of public trees and shrubs in highway rights-of-way if they interfere with billboard visibility.
- SB 179 - clarifies the noise, light and traffic congestion nuisances from a solid waste facility and imposes permit conditions to prevent the nuisance.
- SB 409- develops a program for extending water services statewide.

After Tom FitzGerald's presentation Secretary James Bickford made an impromptu appearance to inform EQC of some of the latest developments concerning the proposed regulations regarding confined animal feeding operations (CAFOs). Sec. Bickford expected that the Kentucky Farm Bureau along with others might sue the cabinet in order to stop the implementation of the regulations. In addition, Secretary Bickford mentioned that the cabinet would begin turning its attention to the regulation of junkyards in the state.

Next, Chair Dew introduced Millie Ellis and Gery Ennis from the Division for Air Quality, who gave an overview of proposed air quality regulations:

401 KAR 50:039 Repeal of 401 KAR 50:037

401 KAR 51:056 Repeal of 401 KAR 51:055

401 KAR 59:311 Repeal of 401 KAR 59:310 and

401 KAR 60:670 Standards of performance for nonmetallic mineral processing plants.

A motion was made by Betsy Bennett and seconded by Gary Revlett and passed unanimously to approve the regulations.

Chair Dew next introduced Don Dott, Executive Director of the Kentucky State Nature Preserves Commission. Mr. Dott updated EQC on efforts to fund the acquisition of essential lands for Blanton Forest. At nearly 2,350 acres, Blanton Forest is the largest and most diverse old-growth forest in Kentucky and one of the 13 largest old-growth tracts in the eastern United States. Efforts are underway to protect the forest and ensure its future for generations to come. This will be accomplished through a \$3.5 million fund raising effort that will seek to acquire remaining old-growth acreage and surrounding buffer lands and endow a fund that will provide for ongoing management and protection of the forest.

Under the Blanton Forest Preserve Design Plan, a total of 6,700 acres will be purchased and protected. Of this amount, 4,350 acres will serve as a "buffer" to the 2,350-acre old-growth tract, protecting it from

outside disturbances. Though the term "buffer" is used to describe the additional acreage, it can be misleading. This area is biologically unique and worthy of protection in its own right. Currently, 1,075 acres of the old-growth section and about 375 buffer acres are protected. A recent donation of \$500,000 from the J. Graham Brown Foundation of Louisville to the Kentucky Natural Lands Trust, along with \$600,000 appropriated by the General Assembly and other monies from federal and private sources has helped the campaign move halfway toward its fund raising goal. The Kentucky Natural Lands Trust (KNLT) a private, nonprofit organization, is committed to protecting and raising public awareness of our diminishing natural lands and is spearheading the effort to protect Blanton Forest.

KNLT holds options to purchase two parcel of land--approximately 1,200 acres of old-growth forest and 750 acres of high quality buffer lands. The successful purchase of the 1,200-acre tract will secure the remaining old-growth forest.

KNLT's efforts to preserve Blanton Forest have the support of statewide environmental and community groups, including the Kentucky State Nature Preserves Commission, the Kentucky Natural Resources and Environmental Protection Cabinet, Mountain Association for Community Economic Development (MACED), The Nature Conservancy, the Sierra Club, the Kentucky Audubon Society, the Harlan Revitalization Association and concerned Harlan Countians.

Next, EQC Chair Dew introduced Debby Milton with the Kentucky Infrastructure Authority (KIA). Ms. Milton gave a presentation on the Authority's new legislative mandate (SB 409). KIA's goal is to make potable water and wastewater treatment available to all Kentuckians. This goal will be accomplished by ensuring that some entity is responsible for providing water and sewer services to all areas of Kentucky, that that entity develops a strategic plan to provide for the needs of the area it serves in the most efficient manner, and that state assistance goes to the most needy areas and to those entities which can use the resources most efficiently.

Business meeting

The minutes for the March 22 meeting was read. A motion was made by Betsy Bennett and seconded by Gary Revlett to approve the minutes. The commissioners voted and the minutes were approved.

The commissioners reviewed a letter to Secretary Bickford from Jimmy D. Helton, Cabinet Secretary for the Health Services, regarding on-site sewage issues. The commissioners decided to defer action on this issue until results of an on-site sewage strategic plan being prepared by the Division of Water and other state and local officials is completed. It is expect to be completed in the summer of 2000.

The commissioners reviewed a letter from James Codell, Secretary of the Transportation Cabinet, concerning the proposed I-66 project in reply to EQC's request to make sure the public is involved in the process to designate the I-66 corridor through Kentucky.

The commissioners reviewed a letter from Richard Wahrer, Environmental Scientist for the Department

of Surface Mining, regarding the petition to declare lands unsuitable for mining of property belonging to Roy V. Mullins.

The commissioners reviewed correspondence from Dr. Mike MacDonald concerning the proposed development in the palisades region of the Kentucky River.

The commissioners received copies of letters and thank you notes from Earth Day Award recipients.

Frances Kirchhoff provided a brief review of the status of EQC's budget. With 83 percent of the fiscal year lapsed, 83 percent of the budget is spent.

The next meeting is scheduled for July. There being no further business, the meeting adjourned at 3:30.

Signed

Date